

Chapter 1

Overview

INTRODUCTION

1-1. Contractors have always supported our armed forces. Numerous examples exist throughout our nation's history, from sutlers supporting George Washington's Army to today's high-tech firms supporting complex weapon and equipment systems. While contractors consistently support deployed armed forces, commanders need to fully understand their role in planning for and managing contractors on the battlefield and to ensure that their staff is trained to recognize, plan for, and implement contractor requirements. Key to understanding basic contracting and contractor management is being familiar with the basic doctrine laid out in this field manual (FM) and FM 4-100.2.

CONTRACTORS AS A FORCE-MULTIPLIER

1-2. Whether it bridges gaps prior to the arrival of military support resources, when host-nation support is not available, or augments existing support capabilities, contractor support is an additional option for supporting operations. When considering contractor support, it should be understood that **it is more than just logistics; it spans the spectrum of combat support (CS) and combat service support (CSS) functions**. Contracted support often includes traditional goods and services support, but may include interpreter, communications, infrastructure, and other non-logistic-related support. It also has applicability to the full range of Army operations, to include offense, defense, stability, and support within all types of military actions from small-scale contingencies to major theater of wars.

1-3. In the initial stages of an operation, supplies and services provided by local contractors improve response time and free strategic airlift and sealift for other priorities. Contractor support drawn from in-theater resources can augment existing support capabilities to provide a new source for critically needed supplies and services, thereby reducing dependence on the continental United States (CONUS) based support system. When military force caps are imposed on an operation, contractor support can give the commander the flexibility of increasing his combat power by substituting combat units for military support units. This force-multiplier effect permits the combatant commander to have sufficient support in the theater, while strengthening the joint force's fighting capability. At the conclusion of operations, contractors can also facilitate early redeployment of military personnel.

UNDERSTANDING CONTRACTOR SUPPORT

1-4. For contractor support to be fully integrated into the operational environment, responsible commanders and their staffs must understand key factors with regard to contractor support.

WHAT IS A CONTRACT?

1-5. Military units receive their guidance and instructions to conduct an operation from published plans and orders, usually operations plans (OPLAN) and operation orders (OPORD). These plans and orders describe the mission and the manner in which the operation will be accomplished. **Contractors receive OPORD-like guidance via their contracts.** A contract is a legally enforceable agreement between two or more parties for the exchange of goods or services; it is the vehicle through which the military details the tasks that it wants a contractor to accomplish and what will be provided to the contractor in return for the goods or services.

WHAT IS A CONTRACTOR?

1-6. Contractors are persons or businesses, to include authorized subcontractors, that provide products or services for monetary compensation. A contractor furnishes supplies, services, or performs work at a certain price or rate based on the terms of a contract. In a military operation, a contractor may be used to provide life support, construction/engineering support, weapon systems support, and other technical services.

Contractor Duties

Duties of contractors are established solely by the terms of their contract—they are not subject to Army regulations or the Uniform Code of Military Justice (UCMJ) (except during a declared war). Authority over contractors is exercised through the contracting officer.

NOTE: For this manual, the term *contractor* refers to the business entity, not the individual employee of the business.

WHAT ARE THE DIFFERENT TYPES OF CONTRACTORS?

1-7. Contractor support is categorized by the type of support that they provide on the battlefield and, more importantly, by what type of contracting organization has contracting authority over them. Battlefield contractors are generally referred to as theater support contractors, external support contractors, or system contractors. Commanders and planners must be aware that a requirement for a particular system or capability may result in the introduction of these type contractors into the operational plan and that contractor management and planning is often significantly different depending on the type of contractor support provided. These differences are described in detail throughout the subsequent chapters of this FM.

THEATER SUPPORT CONTRACTORS

1-8. Theater support contractors support deployed operational forces under prearranged contracts, or contracts awarded from the mission area, by contracting officers serving under the direct contracting authority of the Army principal assistant responsible for contracting (PARC) or other Service/joint/multinational chief of contracting responsible for theater support contracting in a particular geographical region. Theater-support contractors provide goods, services, and minor construction, usually from the local commercial sources, to meet the immediate needs of operational commanders. Theater support contracts are the type of contract typically associated with contingency contracting.

EXTERNAL SUPPORT CONTRACTORS

1-9. External support contractors provide a variety of combat and combat service support to deployed forces. External support contracts are let by contracting officers from support organizations such as United States (US) Army Materiel Command (USAMC) and the US Army Corps of Engineers (USACE). They may be prearranged contracts or contracts awarded during the contingency itself to support the mission and may include a mix of US citizens, third-country nationals (TCN) and local national subcontractor employees. External support contracts include the Logistics Civil Augmentation Program (LOGCAP) administered through USAMC's logistics support elements (LSE), sister Service LOGCAP equivalent programs the Civil Reserve Air Fleet, commercial sealift support administered by the US Transportation Command (USTRANSCOM), and leased real property and real estate procured by the USACE.

SYSTEM CONTRACTORS

1-10. System contractors support many different Army materiel systems under pre-arranged contracts awarded by the Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA[ALT]) program executive officer (PEO)/program manager (PM) offices and USAMC's Simulations, Training and Instrumentation Command (STICOM). Supported systems include, but are not limited to, newly or partially fielded vehicles, weapon systems, aircraft, command and control (C²) infrastructure, such as the Army Battle Command Systems (ABCS) and standard Army management information systems (STAMIS), and communications equipment. System contractors, made up mostly of US citizens, provide support in garrison and may deploy with the force to both training and real-world operations. They may provide either temporary support during the initial fielding of a system, called interim contracted support (ICS), or long-term support for selected materiel systems, often referred to as contractor logistic support (CLS).

WHAT IS A REQUIRING UNIT OR ACTIVITY?

1-11. A requiring unit or activity is that organization or agency that identifies a specific CS or CSS requirement through its planning process to support the mission. All requiring units or activities are responsible to provide contracting and contractor oversight in the area of operations (AO), through appointed contracting officer representatives (COR), to include submitting contractor accountability and visibility reports as required.

Requiring units can either be a tactical- or operational-level unit in the AO or a support organization, such as an ASA(ALT) PEO/PM or USAMC, which has identified a support requirement that affects forces in the field. This organization identifies the specific requirements for the support. If it is determined that the requirement is best satisfied by contractor support, this organization prepares the required statement of work (SOW) that supports the contracting process. It should be noted that the requiring unit or activity may not be the organization actually receiving the contractor support. These units are simply referred to as the supported unit.

WHAT IS A SUPPORTED UNIT?

1-12. A supported unit is the organization that is the recipient of support, including contractor-provided support. A supported unit may also be the requiring unit, if it initiates the request for support.

WHAT IS A SUPPORTING ORGANIZATION?

1-13. The supporting organization is that organization or activity tasked to furnish organizational or life support to a contractor. It may be the supported organization, the requiring unit or activity, a functional organization such as a transportation unit or the USACE that would provide equipment or facilities, or any other organization that possesses the support capability. The supporting organization is responsible for providing specified organizational support or life support to contractors as directed. The supporting organization may, if appropriate, use another contractor to provide such support.

WHAT IS A SUPPORTING CONTRACTING ACTIVITY?

1-14. A supporting contracting activity is the contracting organization that supports the requiring unit or activity in arranging contractor support. This organization, staffed with certified contracting personnel, may either be the in-theater contracting organization organic to deploying forces, or contracting organizations from outside the theater such as USAMC, USTRANSCOM, or USACE. Regardless of their location, this organization is responsible for the converting of the requiring unit or activities requirement in contracting terminology, locating potential providers, and negotiating and awarding the contract.

WHAT IS A CONTRACTING OFFICER?

1-15. A contracting officer is the official with the legal authority to enter into, administer, and/or terminate contracts. Within the Army, a contracting

officer is appointed in writing through a warrant (SF 1402) by a head of contracting activity (HCA) or a PARC. Only duly warranted contracting officers, appointed in writing, are authorized to obligate funds of the US Government. Active and Reserve Component military personnel, as well as Department of Defense (DOD) civilian personnel, may serve as contracting officers supporting deployed Army forces. There are three types of contracting officers: procuring contracting officer (PCO), administrative contracting officer (ACO), and a terminating contracting officer. The PCO and ACO will be the primary contracting officers commanders will have to work with. Further discussion on contracting officers can be found in FM 4-100.2.

WHAT IS A CONTRACTING OFFICER'S REPRESENTATIVE?

1-16. A COR is an individual appointed in writing by a contracting officer to act as the eyes and ears of the contracting officer. This individual is not normally a member of the Army's contracting organizations, such as the Army Service Component Command (ASCC) PARC office, but most often comes from the requiring unit or activity.

Note: It is important to understand that in some situations, the requiring activity may not be the supported unit. For example, the requiring activity for support to the FOX chemical, biological, radiological, and nuclear detection vehicle is FOX vehicle PM office. In this case, the PM is responsible to ensure that the supported unit and/or the USAMC LSE provides the requisite CORs to assist in the management of the contract.

1-17. From a doctrinal perspective, each requiring unit or activity should appoint a COR from the supported unit. In all cases, the contracting officer assigns the COR specific responsibilities, with limitations of authority, in writing (see Appendix A for a description of COR guidelines). It should be noted that the COR represents the contracting officer only to the extent delegated in the written appointment and does not have the authority to change the terms and conditions of a contract. Only a PCO or ACO (if appointed) may make changes to an existing contract.

System Contractor COR

For system contractors, the COR would be the individual who ensures that the contractor employee provides the day-to-day management oversight in both garrison and in the AO. This COR is also the individual who ensures that the system-contractor employee is prepared to deploy. In some cases, the system contractor COR would come from the supported unit when the contractor employee has a permanent habitual relationship with the unit. On the other hand, where the contractor employee has an area support mission, the COR would come from the unit, possibly the USAMC LSE, that has area support responsibilities related to the contracted support being provided.

WHAT IS A S

1-18. A SOW defines the government's requirements in clear, concise language identifying specific work to be accomplished and incorporated into the contract. The SOW is the contractor's mission statement. SOWs, prepared by the requiring unit or activity, must be individually tailored to consider the

period of performance, deliverable items, if any, and the desired degree of performance flexibility. The work to be performed is described in terms of "what" is the required output rather than either "how" the work is accomplished or the number of hours provided. It also must be understood that any requirements beyond the SOW may expose the government to claims and increased costs.

WHAT IS AN UNAUTHORIZED COMMITMENT?

1-19. An unauthorized commitment (UAC) occurs when there is a purchase agreement that is not binding solely because the government representative (a soldier or Department of the Army civilian [DAC]) who made it lacked the authority to enter into that agreement on behalf of the government. Only a warranted contracting officer is authorized to enter into such agreements. To a businessman especially in a foreign country, anyone that appears to possess the authority to make a purchase on behalf of the US government will sell his or her products or services to that person. Unfortunately, there is no documentation to issue payment. Therefore, the businessman doesn't get paid. This in turn creates resentment towards the US military and can prevent further purchases from being made. Another way a UAC occurs is when a government representative directs the actions of a contractor or their employees through the issuance of a work directive not identified in the SOW resulting in the government incurring additional charges. Both of these UACs can be ratified by a contracting officer; however, the ratification process is lengthy and prevents legitimate purchases from being made in a timely matter.

1-20. Soldiers and DACs can be held financially liable for UACs depending on the circumstances and conduct of the individual initiating the UAC.

CONTRACTOR AND MILITARY DISTINCTIONS

1-21. The type and quality of support that a contractor provides is similar to that provided by a military CS or CSS support unit, when considered from a customer perspective. However, there are some fundamental differences that commanders and their staffs must be aware of. These differences include:

- Contractors perform only tasks specified in contracts. "Other duties as assigned" does not apply in a contract environment.
- Contractors and their employees are not combatants, but civilians "authorized" to accompany the force in the field. Authorization to accompany the force is demonstrated by the possession of a DD Form 489 (Geneva Conventions Identity Card for Persons who Accompany the Armed Forces). This status must not be jeopardized by the ways in which they provide contracted support.
- Contractor status as civilians accompanying the force in the field is clearly defined in the Geneva Conventions and other international agreements. They are generally defined as persons who accompany the armed forces without actually being members thereof and are responsible for the welfare of the armed forces. Depending upon their duties, they may be at risk of injury or death incidental to enemy attacks on military objectives. If captured, they are entitled to prisoner

of war status. However, if captured, the contractor's treatment and status will be dependent upon the nature of the hostile force and their recognition, if any, of relevant international agreements.

1-22. Management of contractor activities is accomplished through the responsible contracting organization, not the chain of command. Commanders do not have direct control over contractors or their employees (contractor employees are not the same as government employees); only contractors manage, supervise, and give directions to their employees. Commanders must manage contractors through the contracting officer or ACO. CORs may be appointed by a contracting officer to ensure a contractor performs in accordance with (IAW) the terms and conditions of the contract and the Federal acquisition regulations. The COR serves as a form of liaison between the contractor, the supported unit, and the contracting officer.

CONTRACTOR MANAGEMENT IN THE MILITARY ENVIRONMENT

1-23. The management and control of contractors is significantly different than the C² of soldiers and DACs. During military operations, soldiers and DACs are under the direct C² of the military chain of command. In an area of responsibility (AOR), the regional combatant commander (previously referred to as the commander in chief [CINC]) is responsible for accomplishing the mission and ensuring the safety of all deployed military, government civilians, and contractor employees in support of US military operations. The supported combatant commander, through the appropriate ASCC, can direct soldier and DAC task assignment including special recognition or, if merited, disciplinary action. Military commanders do not have, however, the same authority or control over contractors and their employees and only has command authority IAW Department of State rules and regulations. To fully integrate contractor support into the theater operational support structure, proper military oversight of contractors is imperative.

1-24. Currently, there is no specifically identified force structure nor detailed policy on how to establish contractor management oversight within an AOR. Consolidated contractor management is the goal, but reality is that it has been, and continues to be, accomplished through a rather convoluted system that includes the requiring unit or activity, the supported military unit (i.e., normally the Army operational-level support commands, such as logistics, engineer, medical, signal, military intelligence, and personnel), strategic-level commands such as the Defense Logistic Agency (DLA), Defense Contracting Management Agency (DCMA) and/or the USAMC's LSE, that has technical and operational management of the contractors providing specific functional support in the AOR.

1-25. It is important to understand that the terms and conditions of the contract establish the relationship between the military (US Government) and the contractor; this relationship does not extend through the contractor supervisor to his employees. Only the contractor can directly supervise its employees. The military chain of command exercises management control through the contract.

1-26. The military link to the contractor, through the terms and conditions of the contract, is the contracting officer or duly appointed COR, who communicates the commander's specific needs to the contractor, when the

requirement has already been placed on the contract. When the requirement is not already placed on the contract, the military link to the contractor is the contracting officer. The contracting officer, not the COR, is the only government official with the authority to direct the contractor or modify the contract. The COR, as stated earlier, who has daily contact with the contractor and is responsible for monitoring contractor performance (see Appendix A) is key to contractor management and control. To manage habitually related system-contractor employees, unit personnel with functional area oversight responsibilities may be trained and designated CORs. This interface allows the contracting officer to monitor and direct the activities of the contractor within the scope of the contract to ensure the commander's requirements are met. For a detailed discussion of contractor management, refer to Chapter 4.

GOVERNING PRINCIPLES OF CONTRACTOR SUPPORT

1-27. The consideration and use of contractors in support of military operations is governed by several principles. The following principles provide a framework for using contractors.

RISK ASSESSMENT

1-28. To properly evaluate the value of contractors to any given military operation, the requiring unit or activity and the supported commander and staff make an assessment of risk. This assessment evaluates the impact of contractor support on mission accomplishment, including the impact on military forces, if they are required to provide force protection, lodging, mess, and other support to contractors, to determine if the value the contractor brings to operations is worth the risk and resources required to ensure its performance. The availability of government support provided to contractors, and any conditions or limitations upon the availability or use of such services, needs to be clearly set forth in the terms of the contract. The assessment also addresses potential degradation of contractor effectiveness during situations of tension or increased hostility. See Chapter 2 for a detailed discussion of risk assessment.

FORCE-STRUCTURE AUGMENTATION

1-29. Contractors supporting military operations can be an additional option for meeting support requirements. The use of contractors enables a commander to redirect his military support units to other missions. Therefore, contractors are force multipliers. Even though contractors are a force multiplier, Army policy is that contractors do not permanently replace force structure and the Army retains the military capabilities necessary to perform critical battlefield support functions. Department of Defense Instruction (DODI) 3020.37 requires the development and implementation of plans and procedures to provide reasonable assurance of the continuation of essential services during crisis situations when using contractor employees or other resources as necessary. If the combatant commander, or subordinate ASCC, has a reasonable doubt as to their continuation by the incumbent contractor, contingency plans for obtaining the essential service from

alternate sources, such as military, DACs, host nation, or another contractor, must be prepared and included in the contracting support plan.

1-30. Some units, especially digitized heavy units and the interim brigade combat teams may be supported by a significant number of system contractors necessary to provide technical support to newly released and/or conditionally released equipment. When this is the case, the ASCC must weigh the risk of when and where these system contractors are utilized in the AO.

MISSION, ENEMY, TERRAIN (INCLUDING WEATHER), TROOPS, TIME AVAILABLE, AND CIVIL CONSIDERATIONS

1-31. The consideration of mission, enemy, terrain (including weather), troops (includes contractors IAW FM 3-0), time available and civil considerations (METT-TC) is used to evaluate how contractors are used in support of a military operation. These considerations assist commanders and staff planners in evaluating the risk of using contractors throughout the AO. When the commander determines that the risk associated with using contractors is unacceptable, contractors are not used until the risk is reduced.

INTEGRATED PLANNING

1-32. In order for contractor support to be effective and responsive, its use must be considered and integrated in the deliberate or crisis action planning process. Proper planning identifies the full extent of contractor involvement, how and where contractor support is provided, and any responsibilities the Army may have in supporting the contractor. Planning must also consider the need for contingency arrangements if a contractor fails to or is prevented from performing. Chapter 2 discusses contractor planning in detail.

SUPPORT TO THE CUSTOMER

1-33. Contracts will be written to provide the same quality and extent of support as that provided by military units. The contractor organization must be integrated to minimize disruptions to operations and minimize the adverse impact on the military structure. Links between military and contractor automated systems must not place significant additional burdens or requirements on the supported unit. Although contractors may use whatever internal systems or procedures they choose, adherence to military systems and procedures is mandatory when interfacing with the Army. However, the use of internal contractor systems will not compromise operational information that may be sensitive or classified. Additionally, requiring units or activities must be certain these system interface requirements are reflected in the SOW, contracting officers must do the same in the terms of the contract.

INTERNATIONAL AGREEMENTS

1-34. The international agreements and host-nation laws that apply to the operational area directly affect the use of contractors. They may establish legal obligations independent of contract provisions and may limit the full

use of contractor support. Typically, these agreements and laws affect contractor support by—

- Directing the use of host-nation resources prior to contracting with external commercial firms.
- Restricting firms or services to be contracted.
- Establishing legal obligations to the host nation (e.g., customs, taxes, vehicle registration and licensing, communications and facilities support, passports, inter- or intracountry travel, mail, work permits, and hiring of local workers).
- Prohibiting contractor use altogether.

Consideration of these agreements must be made when preparing OPLANs/OPORDs and contracts. Conversely, the use of contractors must be considered when entering into new or revised agreements.

HABITUAL RELATIONSHIPS

1-35. A habitual relationship is a relationship between a business and the military for habitual support of a unit/organization or system or set of systems. The nature of this relationship is established through the terms and conditions of a contract and extends beyond that of the organization to include the individual contractor employee and soldier. This type relationship establishes a comrade-at-arms kinship, which fosters a cooperative, harmonious work environment and builds confidence in each other's ability to perform.

1-36. The relationship between the Army and some weapon-system contractors may be long-term and continuous. Accordingly, the Army may not be able to deploy these weapon systems without also deploying the supporting contractors. This establishes a habitual relationship that is necessary and appropriate. However, since contractor employees are not actually part of the habitually supported unit, the overall system-contractor management is still the responsibility of the ASA(ALT) and USAMC (for training, simulations and instrumentation only) PM/PEOs through the supported unit CORs as required. See Chapter 4 for a detailed discussion on the management of contractors.

1-37. The responsible functional staff, through the requiring unit or activity or supported unit, ensures that all contractors and their employees are included as part of the unit for deployments and facilitates the accurate and timely incorporation of contractor employees and equipment into the time-phased force and deployment data (TPFDD), even if this effort is in concert with a habitually supported unit. A distinction must be made between contractors who provide direct support to a supported unit and those who provide support on an area basis. When a contractor is in direct support of a specific supported unit, that unit assumes the responsibility for their deployment. For contractors providing support on an area basis, the requiring unit or activity (when not the supported unit) has this responsibility.

1-38. While habitual relationships improve the working relationship between the Army and contractor employees, the contract requirements and the legal

relationship between the Army and its contractor are not altered by this habitual working relationship.

POLICY ON USE OF CONTRACTORS

1-39. In the event of emergency or contingency operations, contractors will often be required to perform services in an AO. With this increased criticality of contractor support, especially in the near term within digitized units, the Army's policy (AR 715-9) is that:

- Civilian contractors may be employed to support Army operations and/or weapon systems domestically or overseas. Contractors will generally be assigned duties at echelons above division (EAD); EAD should be thought of organizationally instead of a location on a map. However, if the senior military commander deems it necessary, contractors may be temporarily deployed anywhere as needed, consistent with the terms of the contract and the tactical situation.
- Management and control of contractors is dependent upon the terms and conditions of the contract.
- Contractors are required to perform all tasks identified within the SOW and all provisions defined in the contract. Contractors must be prepared to perform all tasks stipulated in the contract by the government to address potential requirements. Contractors will comply with all applicable US and/or international laws.
- Contractor employees may be subject to court-martial jurisdiction in time of war. (Because federal court decisions limit statutory jurisdiction provisions, commanders should consult their staff judge advocate for specific legal advice.)
- When contractor employees are deployed, the Army will provide or make available force protection and support services commensurate with those provided to DAC personnel and authorized by law.
- Contractors accompanying US Armed Forces may be subject to hostile actions. If captured, a contractor's status will depend upon the type of conflict, applicability of any relevant international agreements, and the nature of the hostile force.

NOTE: A limited number of systems contractors may be required to work on a semipermanent well forward on the battlefield. When this is the case, the ASCC must address this situation during the risk assessment process. In some cases, a formal waiver request to DA may be warranted. See AR 715-9 for further guidance.